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BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

- - - - - x  
IN THE MATTER OF: :  
SOUTH JOINT BOARD ON SECURITY :  
CONSTRAINED ECONOMIC DISPATCH :  
- - - - - x

Hyatt Regency on Capitol Hill  
400 New Jersey Avenue, N.W.  
Washington, D.C.

Sunday, February 12, 2006

The above-entitled matter came on for a  
conference, pursuant to notice, at 9:40 a.m.

PRESIDING:

JOSEPH KELLIHER, Chairman

## P R O C E E D I N G S

(9:40 a.m.)

CHAIRMAN KELLIHER: Why don't we start here?

First of all, I'd like to thank everyone for being here this morning. This is the hardy few that came out in a very wet snow storm to talk about security-constrained economic dispatch.

It's a very different setting from our last meeting in California. The climate is different; same subject, though.

But this is the second meeting of this Joint Board. It's really an experiment in Federalism.

We have not had that many Joint Boards in this City. We've all had a lot of telecons, but I really enjoyed the last meeting. We had a very discussion of the issues.

Today I thought the discussion would really focus on the document that we circulated. We were charged to study the security-constrained economic dispatch in the South, and then make recommendations to the Commission.

The Commission, in turn, would report to Congress, including any consensus recommendations from the Joint Boards. So, the first question is to look at the document we circulated and see, does it really fairly reflect the discussions we had on the subject in November, then look at the second document on recommendations.

1           Those recommendations were pulled straight from  
2           the record in most cases. They also reflect some of the  
3           recommendations in the DOE report that was issued shortly  
4           after our meeting.

5           I'm not saying they're my recommendations of  
6           Jimmy's recommendations, but they're really ones that  
7           emerged out of our prior discussion. We can work through  
8           those after we talk a little bit about the draft study and  
9           see if people are comfortable with the draft study, or if  
10          there are changes they want to make to it, and then we can  
11          start talking about recommendations.

12          The next step would be to recapitulate today's  
13          discussion, and to the extent we agree to make  
14          recommendations and we agree on the recommendations we  
15          should make, we would wrap that up into a report from this  
16          Joint Board to the Commission, to FERC. That's basically  
17          the agenda for today.

18          I'd like to ask my Vice Chairman, my new Vice  
19          Chairman, to make some comments. Mike Callahan has moved on  
20          to greener pastures, and Jimmy has stepped in as the new  
21          Vice Chairman, and he's helped with the documents that we  
22          circulated previously.

23          MR. ERVIN: I don't have anything in particular  
24          to add to what Joe said. Unlike Mike, he and I didn't have  
25          a meeting where Joe could steal all of Michael's thoughts,

1       because I didn't have any to begin with, but I'm glad to see  
2       all of you this morning.

3               We also agree that the meeting we had in Palm  
4       Springs was interesting and worthwhile. I thought one of  
5       the better aspects of it was that it was one of the very few  
6       times that I have seen an actual interchange on some of the  
7       issues get debated in the region.

8               But people actually had a chance to follow up on  
9       assertions. You hear a lot of assertions about many  
10      different subjects from many different points of view, and  
11      it was helpful, to me, at least, to actually have a chance  
12      to explore some of them in depth.

13              I left the room thinking I had a better  
14      understanding of the situation than I did when I came in,  
15      which has not always been the case in the meetings I've been  
16      to. Again, I appreciate all of you being here this morning  
17      and look forward to hearing the discussion today.

18              CHAIRMAN KELLIHER: Why don't we just go around  
19      the table and would you all identify yourselves for the  
20      record, and feel free to make any comments you want. Once  
21      we go around the table, we can start talking about the  
22      study.

23              MR. HAMILTON: G. O'Neal Hamilton, South Carolina  
24      PSC.

25              MR. SULLIVAN: Jim Sullivan from the Alabama

1 Public Service Commission.

2 MS. HOCHSTETTER: Sandy Hochstetter, Arkansas  
3 PSC.

4 MS. EPPS: Pandora Epps from the Georgia PSC.

5 MR. CLOUD: Jeff Cloud from the Oklahoma  
6 Corporation Commission.

7 MS. BACA: Shirley Baca from the New Mexico  
8 Public Regulation Commission. I'm also on the Western  
9 Board, so I appreciate that you didn't hold both Boards at  
10 the same time.

11 DR. GARBACZ: Chris Barbacz on behalf of the  
12 Mississippi Commission.

13 MR. HINTON: K.C. Hinton for the Florida PSC.

14 MR. HOLLOWAY: Larry Holloway with the Kansas  
15 Commission staff sitting in for Brian Moline. I don't know  
16 whether he's here or not, but --

17 CHAIRMAN KELLIHER: Okay.

18 We previously circulated a draft study. Why  
19 don't we turn to that and see if any of the Board members  
20 have comments on the draft study. We think that fairly  
21 would reflect the discussion we had last meeting.

22 If you think it does fairly reflect the previous  
23 discussion, we don't have to do a line-by-line review of the  
24 study; we can just go straight to recommendations. Do we  
25 want to make recommendations, and, if so, which

1 recommendations are the choice of the Joint Board members?

2 Sandy?

3 MS. HOCHSTETTER: Clarification questions: If we  
4 have minor wordsmithing suggestions, would we just convey  
5 those to someone?

6 CHAIRMAN KELLIHER: Sure. We can do the edits  
7 offline, so that we can really talk about policy, so, to the  
8 extent you have policy issues on the draft study, let's talk  
9 about those. But if it's wordsmithing, we can do that  
10 offline.

11 Any comments on the draft study? It follows a  
12 bit the format of the documents we released in November, so  
13 it's not real new.

14 The parts that are new, are the parts that  
15 reflect the discussion from November. I think those are  
16 intended to be a fairly Joe Friday discussion of what we did  
17 in November, and pointing out the major issues that came up  
18 at the Joint Board meeting, both in the oral testimony, as  
19 well as the written comments that were submitted afterwards.

20 Jim, did you have comments?

21 MR. SULLIVAN: Not yet.

22 (Laughter.)

23 MR. ERVIN: To an extent I remember what people  
24 said, they think the document was an accurate reflection of  
25 the comments and what I understood to be in the written

1 record. I didn't have any concerns about the report. It is  
2 intended, as you said, to be a Joe Friday factual document.

3 CHAIRMAN KELLIHER: The thing that adds to what  
4 was previously circulated, identifies the issues that were  
5 discussed at the last Joint Board meeting, so, really, the  
6 question for us, if we don't have any changes we want to  
7 discuss to the draft study, is, what are the recommendations  
8 we want to pursue that are relevant to these issues?

9 As we talk about recommendations, one thing to  
10 bear in mind is that Congress has told us that the purpose  
11 of this Joint Board is limited to studying security-  
12 constrained economic dispatch and the issues associated with  
13 that.

14 We're not supposed to get too far afield from  
15 that general subject as we consider recommendations. I'd  
16 also like to point out that Julie Parsley of Texas is  
17 listening in, so she's here electronically, as well.

18 Any comments on recommendations out of the second  
19 document that was circulated? It starts at Attachment C of  
20 the document. I think we should probably just go down and  
21 look at those one by one.

22 Now, again, these recommendations reflect the  
23 record, both the oral testimony and the written comments in  
24 November. The first bullet is a discussion about trading  
25 hubs.

1           There was some concern that some of the hubs in  
2           the South don't have the same liquidity and aren't as good a  
3           measure of price as the trade hubs elsewhere. For example,  
4           some of the trading hubs in the organized markets, as well  
5           as some of the trading hubs, say, the Palo Verde Hub and the  
6           Mid-Columbia Hub and the California/Oregon border hub.  
7           Those are very good sources of price information.

8           So, one of the issues that came up in November,  
9           one of the recommendations is to somehow improve the quality  
10          of trading hubs in the South, by introducing a day-ahead  
11          market and expanding the scope of economic dispatch. That  
12          was the recommendation that came from the record.

13          There's also more general issues under other ways  
14          to improve the quality of trading hubs. It seems that  
15          improving the quality of trading hubs -- to me, that seems  
16          to be generally a good thing. It's hard to find that  
17          objectionable.

18          It doesn't necessarily mean introducing a day-  
19          ahead market, it doesn't seem to me, but, you know, I think  
20          that generally improving the quality of trade hubs, I have a  
21          hard time conceiving what's the down side to that, what's  
22          the negative to that. Sandy?

23          MS. HOCHSTETTER: I have a supplemental comment.  
24          It seems like you would need, if you're going to have a  
25          trading hub that's fairly effective, that you at least have



1       some sort of independent overseer of that trading hub, such  
2       as with the Entergy Region. They're suggesting that SPP be  
3       the overseer of the weekly procurement market.

4               I remember Carl Monroe saying that once you had  
5       that with the system up and running, it would be a very  
6       nominal additional expense to have a day-ahead market, but,  
7       as a preliminary matter, you would have to have some sort of  
8       entity, some sort of assisting process, in place.

9               So, there may need to be some sort of a  
10       cost/benefit analysis performed to see whether or not in  
11       that particular region -- certainly in the Entergy region,  
12       the SPP region, there's already been studies to demonstrate  
13       that. But I'm not sure that it could be uniformly done. I  
14       think it's more another question that I have in terms of how  
15       do we implement this informally without an entity?

16              CHAIRMAN KELLIHER: I agree with you that RTO  
17       trading hubs are a very good source of price information;  
18       very good price transparency in the RTO trading hubs. But  
19       there are non-RTO trading hubs that are equally good sources  
20       of pricing information.

21              The Cinergy hub, before MISO's A. T. Markham  
22       established that as a very good source of pricing  
23       information, and, currently, Palo Verde, Cobb and the Mid-C  
24       trading hubs, those are all non-RTO trading hubs, and they  
25       are a very good source of price information.

1           I think it is possible to improve trading hubs,  
2       without an independent entity. It's possible.

3           MR. ERVIN: It seems to me, looking at this  
4       reservation, I have two thoughts about it. One, as you say,  
5       I don't see any downside to improving a hub. I can't see  
6       any reason anybody could have a problem with that. I do  
7       think, without saying you need an independent entity per se  
8       -- somebody would obviously have to have some confidence in  
9       the accuracy of the numbers that were reported from the hub  
10      and things like that.

11           The second thing is, it seems to me that it  
12      should also be something, at least in our region, that would  
13      be voluntary. If people could participate, if they are  
14      willing to, but we're not required to, in the absence of  
15      some kind of state condition-derived obligation that the  
16      retail load be first through such a hub. So my thought was,  
17      the way to respond to this one is to say yes to the  
18      improvements and development of improvements for hubs.

19           It would be a beneficial thing. At least for  
20      now, they ought to be voluntary. Picking up on Sandy's  
21      point, it would be a good idea that they be operated in such  
22      a fashion that folks had confidence in the way that they  
23      were operating, but I'm not sure how far you'd need to go in  
24      order to establish some formal entity in order to operate a  
25      successful hub. I don't know enough about them to have an

1 opinion on that.

2 MR. HAMILTON: If I could speak to the second  
3 part of Jim's discussion, in South Carolina we would agree  
4 with the fact that it should be voluntary and not additional  
5 regulations at the federal level on these situations. I  
6 think that would best serve our market.

7 CHAIRMAN KELLIHER: Jim, do you have any  
8 comments?

9 (No response.)

10 CHAIRMAN KELLIHER: Any other comments on trading  
11 hubs? Yes, sir?

12 MR. HOLLOWAY: It seems to me that -- in the  
13 Southwest Power Pool, we're in the process of trying to  
14 develop an energy imbalance market. It seems to be that it  
15 would be a little bit premature to try to designate a hub,  
16 when that price signal and the stuff in that market itself  
17 may be very relevant. It may be a natural migration toward  
18 the hub that's relevant to a larger area.

19 Just as you force a hub without really looking at  
20 the congestion around it, it's hard to say how well it would  
21 work for people that can't receive or trade power  
22 physically.

23 DR. GARBACZ: The Mississippi Commission just  
24 wants to go on record as saying that the voluntary aspect  
25 would probably make this acceptable to us.

1                   CHAIRMAN KELLIHER: Again, the non-RTO hubs are  
2 voluntary hubs, to my knowledge, but one thing I think might  
3 help us is if we look at more information on how they  
4 operate and which ones are reliable, which ones are not, and  
5 to what extent -- why are certain hubs reliable and why are  
6 certain hubs not?

7                   There was something pretty recently -- there was  
8 some analysis of trading hubs that looked at the volume of  
9 transactions and clearly put them into different categories  
10 in terms of reliability of price transparency. So why  
11 doesn't the Commission circulate some more information on  
12 the trading hubs to help us on this?

13                  I think, if we can, in the end, adopt some kind  
14 of recommendation on encouraging the improvement of the  
15 quality of the trading hubs, that seems to be -- again, I  
16 struggle to find a good reason why you wouldn't want to have  
17 price transparency in the South, better price transparency  
18 in the South.

19                  I'm not sure exactly how we do that, but it seems  
20 like it's a pretty reasonable goal to pursue. Why don't we  
21 do that on the Commission side? We'll circulate some  
22 information on trading hubs, and in future discussions,  
23 probably electronic or over a conference call, we can talk  
24 about trading hubs.

25                  MS. BACA: Chairman Kelliher, is this also going

1 to be an issue that will be brought up in the West? I think  
2 your point about providing the information is good. We only  
3 have a small southeastern portion of New Mexico that's in  
4 the Southern Pool with SPP.

5 It would be interesting to know for other states  
6 that have a multiple or dual jurisdictional area, what that  
7 information is.

8 CHAIRMAN KELLIHER: Sure, no problem. Did this  
9 come up? Was there a trading hub discussion?

10 MS. BACA: Not as much. You know how the West  
11 is, very independent, so we did keep our Western market  
12 separate.

13 CHAIRMAN KELLIHER: In the case of the western  
14 trading hubs -- we are webcasting this, at least the audio  
15 we're webcasting, so we have to speak into the mikes for the  
16 Sunday morning economic dispatch junkies.

17 (Laughter.)

18 CHAIRMAN KELLIHER: Or they're not going to hear  
19 all of our discussions. Thank you.

20 Is there any more discussion on that first  
21 recommendation, the first bullet?

22 MR. ERVIN: In the second part of it, it also  
23 talks about expanding the scope of the economic dispatch. I  
24 would not that this was an issue. I believe it was  
25 qualified by the NCEC representative at Palm Springs.

1                   Certainly, if that could be done through existing  
2 processes, I don't think anybody would have a problem. I  
3 put a number of questions about it at times, to find out  
4 what that meant, and I don't really recall getting a very  
5 clear understanding of what that meant.

6                   So, in the absence of doing that, we have some  
7 obligations to these folks who took the trouble to make  
8 these recommendations, to comment or at least to acknowledge  
9 that we got them.

10                  The second aspect of this one is one that I have  
11 a little bit of trouble grappling with. I'm not quite sure  
12 exactly what they meant. If they meant to go to a super  
13 regional dispatch, as you find in PJM or some of the others,  
14 I don't think the region is prepared to do that, because I  
15 don't think that -- the existing cost-benefit information we  
16 developed a number of years ago was not all that promising.

17                  In the absence of some better idea of what this  
18 meant, I'm a little bit reluctant to endorse it, based on  
19 what I know now.

20                  CHAIRMAN KELLIHER: Thank you for stating it  
21 clearly, Jimmy. You're right; it says the recommendation is  
22 improved quality of trading hubs in the South by introducing  
23 a day-ahead market and expanding the scope of economic  
24 dispatch.

25                  What expanding the scope of economic dispatch --

1 right now, it's done outside of FERC, at least in SPP,  
2 assuming SPP has an imbalance market, outside it would be in  
3 ERCOT. It would be done on a utility-by-utility basis, and  
4 if you're going to expand the scope of economic dispatch  
5 beyond the utility footprint, there has to be some  
6 institution, and it's hard to see that it's not some kind of  
7 RTO, and that doesn't seem to be the way the region wants to  
8 go at this point.

9 Even an ICT, I'm not sure how an ICT would  
10 necessarily expand the scope of economic dispatch, for  
11 example, if there was an entity -- there is an entity up  
12 now. It's not necessarily clear that the energy hub would  
13 have more liquidity, if it were established.

14 MS. HOCHSTETTER: I'm glad that you called that  
15 out. That was going to be my next comment.

16 I think, at least as I'm looking at the concept  
17 of an ICT, to the extent that the ICT was asked to help look  
18 at a broader array of generation options, and look at a  
19 weekly procurement process and perhaps a day-ahead market or  
20 whatever, it would be expanding the scope from the  
21 standpoint of the scope including more generation options,  
22 not necessarily the scope of the footprint, but the scope of  
23 the generation choices through transmission planning and  
24 looking at additional economic opportunities.

25 I think it kind of gets down to how you scope it.

1 I think it's possible.

2 MR. ERVIN: It seems to me that maybe the best  
3 way to respond, which is maybe consistent with what Sandy  
4 says, would be to indicate that the expansion of the scope  
5 of economic dispatch might or might not, depending on how  
6 it's done, be a sensible thing to do.

7 As you indicated, it would clearly require the  
8 creation of perhaps an additional institution that might or  
9 might not be cost-beneficial. Maybe the best way to respond  
10 to this one, would be to suggest something along the lines  
11 of a voluntary proposal, and receive the appropriate  
12 approval from FERC and state commission approvals, where  
13 required, might be a good thing.

14 It would require further investigation. But they  
15 would need to remain, a), voluntary, and, b) subject to the  
16 appropriate regulatory approvals.

17 CHAIRMAN KELLIHER: I think that makes sense.  
18 The Commission is certainly not hostile to ICTs. We  
19 approved two in December and Entergy is still pending, so  
20 we're not hostile to the institution.

21 We think it can improve the quality of  
22 transmission service. The Commission also has some  
23 discretionary authority under the Energy Policy Act, on  
24 transparency, and it's actually a pretty broad authority  
25 where we can take steps to assure greater transparency of



1       wholesale power sales and transmission service.

2               So this is an area where, if there was consensus  
3       among the Joint Board Members, that it's a good thing to  
4       have improvement in the quality of trading hubs. One  
5       recommendation would be that the Commission should consider  
6       exercising its discretionary authority to require great  
7       transparency, so that would be a way to improve the quality  
8       of trading hubs.

9               That's different, but not inconsistent with  
10       introducing a day-ahead market and expanding the scope of  
11       economic dispatch. It's achieving the same goal by  
12       different means, perhaps. That could include some reporting  
13       requirements.

14              Any more discussion on trading hubs?

15              (No response.)

16              CHAIRMAN KELLIHER: Seeing none, let's go to  
17       Bullet 2, Create Transparency With Respect to the Congestion  
18       Management and Transmission Operation, Together With  
19       Transmission Capacity Expansion Transparency.

20              Any comments on this recommendation?

21              MS. HOCHSTETTER: When I read the second bullet,  
22       I think of the ICT approach as being an incremental  
23       opportunity to get that transparency, and, of course, we  
24       could also partner with the Commission under the statutory  
25       authority and do that. I would be very supportive of that.

1                   CHAIRMAN KELLIHER: The ICT, conceptually, we  
2 support it. We haven't got a mandate on it, we haven't  
3 required it, we haven't conditioned any merger on it, but  
4 when they've come forward, we have approved two and we're  
5 still considering one.

6                   Any comments on this bullet?

7                   MR. ERVIN: This, I guess, is going to be a  
8 persistent theme with a lot of what I say today. Generally  
9 speaking, who is against transparency? It's about as close  
10 to mother, God, and apple pie as you're going to get in this  
11 world.

12                  It seems to me the bigger question is, how do you  
13 get there and under what circumstances? What do you mean by  
14 "transparency" and things of that nature.

15                  Again, dealing with the generality of these  
16 recommendations, it seems to be that about all we can say  
17 is, yes, transparency is a good thing, as a general  
18 proposition. If there are ways to improve it, we ought to  
19 take advantage of them, but, again, they ought to be, at  
20 least in the near term, voluntary and subject to receiving  
21 the appropriate regulatory approvals from you and from us.

22                  At least at the state level, that's likely to  
23 mean that they pass some kind of basic cost-benefit  
24 principles.

25                  CHAIRMAN KELLIHER: Pandora?

1 MS. EPPS: Thank you. With respect -- I just  
2 wanted to echo that I do agree with the comments made by  
3 Commissioner Ervin. Maybe just a point of clarification;  
4 the bullet talks about creating transparency. Maybe we  
5 could say "improving transparency."

6 CHAIRMAN KELLIHER: I think that's true.

7 MR. HAMILTON: I would agree with Commissioner  
8 Ervin and Commissioner Epps, also. The point that we have  
9 on the South Carolina Commission, is that we feel that we  
10 aren't broke and we don't really need to do a lot of fixing  
11 or bring about any other innovations that are unnecessary.

12 We feel like we have an obligation to our  
13 customers, consumers, to protect the good rates that we do  
14 have in South Carolina. We think they are -- we think our  
15 companies are providing excellent reliability. We don't  
16 have any great problems.

17 We are concerned about, when we go into these  
18 transmission, who's going to pay for it? We don't think our  
19 ratepayers should pay for something where the benefits are  
20 going to be for someone else.

21 These are the thoughts that our Commission is  
22 going to carry forward throughout our discussions. Thank  
23 you.

24 DR. GARBACZ: The Mississippi Commission is  
25 essentially in agreement with what the previous speakers

1 have said.

2 CHAIRMAN KELLIHER: This is one where I agree  
3 with Sandy. The ICTs, one of their main purposes is to  
4 improve transparency.

5 The Commission has never mandated them, and I  
6 don't think we're going to mandate them, but we would  
7 encourage them. We'd want to do it -- there is one in the  
8 South already. Entergy has proposed one, as well, so two of  
9 three ICTs have actually been proposed in the South.

10 On transmission capacity expansion, the  
11 Commission has had a relevant recommendation in other  
12 contexts. As to transmission pricing, we proposed the idea  
13 of jurisdictional utilities reporting to the Commission on  
14 their transmission investment, their planned transmission  
15 investments.

16 A lot of the data on transmission investments is  
17 a little mushy. You have announcements of intent to  
18 investors, but then the question is, are the sums invested?  
19 What's the progress on some of these major projects?

20 There's a lot of planning in the transmission  
21 area, that sometimes the implementation of those plans is a  
22 little bit obscure. So the Commission proposed that  
23 jurisdictional employees report on an annual basis, what  
24 their investments were in transmission in the previous year,  
25 and identify major projects and progress on those major

1 projects.

2 Again, that's just to assure greater  
3 transparency. It's the kind of thing that happens on the  
4 generation side.

5 There's reporting right now to the Department of  
6 Energy, where the Department of Energy tracks announced  
7 generation facilities and percentage completion of those  
8 announced generation facilities. You can look at -- I think  
9 it's a quarterly report; it might be annual, but if you look  
10 at the reports and you see a project stay at ten percent for  
11 a couple of reports, it's probably not going to make it, or  
12 it's moribund, at least. It's the kind of thing that can  
13 help assess progress of the investment on the transmission  
14 side.

15 I just wanted to note that we have at least  
16 proposed something along those lines to improve transparency  
17 with respect to transmission capacity expansion. I don't  
18 know if anybody had a reaction to that. Is that a good  
19 thing?

20 MS. HOCHSTETTER: On behalf of Arkansas, I think  
21 that's a great thing. That's obviously something that I  
22 think you would do, but, outside that context, what you  
23 might -- I don't know what the problems would be for this,  
24 but what you might at some point also request, is which one  
25 of those upgrades are for reliability or incremental growth

1 purposes, versus which ones are economic upgrade investments  
2 to gain access to more economic sources of energy.

3 MR. ERVIN: I guess I had a couple of reactions  
4 to the recommendation with respect to capacity expansion.  
5 We might as well get to this now.

6 Certainly the development of transmission  
7 expansion plans is appropriate. I don't think there's any  
8 question, but that there are endeavors, at least within  
9 North Carolina, that we have supported to try to improve the  
10 process of planning for those expansions.

11 On the other hand, I'm a little concerned about  
12 getting afield with respect to this expansion  
13 recommendation, because what we're supposed to do is study  
14 security-constrained economic dispatch, and the principles  
15 of -- security-constrained is essentially the capacity of  
16 the system.

17 I realize that if you change capacity  
18 constraints, that might change the nature of the dispatch,  
19 so I can see how you can relate it to the this subject, but  
20 I'm a little concerned that if we get into the extensive  
21 recommendations about transmission capacity expansion, we  
22 may be going beyond our charge.

23 Sandy and I had a little bit of a discussion  
24 about this before we started. She has a different view. I  
25 wanted to at least state that, so that she and I could get

1       this started.

2                   MS. HOCHSTETTER: Thank you for opening that up,  
3       Jimmy. Actually, I think the charge to the Board in the  
4       original implementing document, did talk about ways to  
5       improve economic dispatch, in other words, this Board was  
6       not just supposed to look at the status quo, but at what  
7       improvements might need to be made to economic dispatch.

8                   I think that an enhanced regional transmission  
9       planning process that's independent and involving multiple  
10      stakeholders, that looked at economic upgrade prospects, is  
11      a way to improve the economic dispatch. Obviously, that's  
12      something that may or may not be something that some states  
13      want to do, but I think that does fit within the parameters  
14      of this particular Joint Board in terms of the instructions  
15      that we all had to look at the subject.

16                  CHAIRMAN KELLIHER: As I mentioned earlier, the  
17      trading hub does have this general authority to ensure  
18      greater transparency of transmission services, as well as  
19      wholesale power sales. This is an area where we could  
20      conceivably have some reporting requirements to particularly  
21      explain transmission service denials or transmission  
22      management.

23                  We do have now, some authority, and we think  
24      transparency is a good thing; we should have it, not just in  
25      the area of trading hubs, but on transmission service. We

1       have some discretionary authority to require reporting to  
2       accomplish that.

3               Any other discussion on this second  
4       recommendation?

5               (No response.)

6               CHAIRMAN KELLIHER:  Let's move on to Establish an  
7       ICT to Provide Independent Transmission Planning for  
8       Optimizing Transmission Construction for Reliability as Well  
9       as Economy and Oversee System Operation.  The ICT would help  
10      to eliminate some of the concerns raised by independent  
11      power producers and transmission-dependent utilities.

12              MS. HOCHSTETTER:  I will agree that this ought to  
13      be modified to reflect the consensus of the entire southern  
14      region, but it ought to be modified to say where the  
15      economics have been demonstrated, the cost benefits, and  
16      where the state and federal regulators approve that concept,  
17      subject to their individual statutory requirements, et  
18      cetera.  I think that's perfectly fine.

19              MR. ERVIN:  It seems to me that there's clearly  
20      an interest in multiple places within the region on this  
21      kind of arrangement as a way to deal with some problems that  
22      everybody acknowledges exist, without going whole-hog into  
23      RTOs.

24              As long as the proposals are voluntary and  
25      satisfy the relevant regulatory criteria, I don't see any



1 reason why they might not be an appropriate solution, or  
2 something even, perhaps, like the voluntary planning process  
3 that North Carolina is trying to start as yet another  
4 permutation on this kind of arrangement. It might be  
5 something we could look favorably upon as a potential  
6 solution.

7 CHAIRMAN KELLIHER: Let me just comment on this,  
8 as well. I think it should be styled more in the form of  
9 encouraging ICTs, than "establish," because the Commission -  
10 - believe me, to establish ICTs, it seems we would have to  
11 make a finding that there's undue discrimination and that  
12 ICT is a remedy for that discrimination, therefore, an ICT  
13 is required.

14 That's not what is coming before the Commission  
15 today. There hasn't been -- a filing hasn't been premised  
16 on undue discrimination and an ICT remedying that undue  
17 discrimination.

18 It's always been that it will improve the quality  
19 of transmission service; it will improve transparency, so it  
20 seems we should be encouraging ICTs, rather than  
21 "establishing." Any comments? Jeff?

22 (No response.)

23 CHAIRMAN KELLIHER: Let's work on down. The  
24 fourth recommendation: Establish an independent monitor to  
25 monitor and prevent market power abuse.

1           This is an area where the Commission, as you  
2 know, over the years, has established market monitoring for  
3 the organized markets. The RTOs all have market monitors.  
4 They have, actually, a variety of market monitors.

5           They have internal market monitors; they have  
6 externals; some have both -- many have both. There's also  
7 some market monitors who are individual companies. I think  
8 there's one in New Mexico. The Public Service Company of  
9 New Mexico, as an aspect of its merger with Texas-New Mexico  
10 Power, has established a market monitor.

11           I think there's perhaps something like six market  
12 monitors outside the RTOs in individual companies. So it is  
13 something; it's an institution that doesn't exist in the  
14 RTOs, and that's relatively sound, but they typically  
15 sometimes -- they are for transmission more than for  
16 wholesale power sales, but they are like a neighborhood  
17 watch.

18           If they see a behavior that might violate the  
19 Federal Power Act, then they warn the Commission that  
20 there's a possible violation there. They are really like a  
21 neighborhood watch system, if you will.

22           This recommendation is advanced by SPP,  
23 apparently, by Mr. Monroe at SPP.

24           MS. HOCHSTETTER: I have one thought on this. I  
25 think Mr. Monroe's comments were probably more in the

1 context of SPP as both an RTO and an ICT.

2 They have an internal market monitor. As a  
3 matter of fact, even with the ICT proposal, there would not  
4 be an external market monitor in the SPP RTO; there would  
5 just be their internal market monitor to perform that  
6 function within the ambit of the ICT framework.

7 So, to the extent that a region or control area  
8 decided to use an ICT, this might fit in with that. I'm not  
9 really sure that I can see the value of an independent  
10 monitor, unless someone can correct me. I'm not sure that  
11 there are in the South.

12 CHAIRMAN KELLIHER: There were some at Entergy.  
13 I can't -- I'm not aware of market monitors outside, in the  
14 South, other than Entergy, which had a few to look at  
15 solicitations.

16 MS. HOCHSTETTER: That was just in respect to  
17 being in full compliance, so it's an ongoing market monitor.

18 MS. BACA: Mr. Chairman, in those situations  
19 where they have market monitoring, independent monitoring,  
20 don't they usually do it like in the case that we have with  
21 TNM, where they have different jurisdictions, in terms of  
22 like the Southwest Power Pool.

23 CHAIRMAN KELLIHER: I think they would. To my  
24 knowledge, they don't report just to FERC; they might report  
25 to state commissions, they might report to SPP, or to FERC.

1 I think they have a variety of reporting instructions.

2 MS. BACA: I think they have a little bit  
3 different reporting jurisdiction. It works better for them,  
4 don't you think?

5 CHAIRMAN KELLIHER: For the ones in SPP and the  
6 organized markets? They tend to have broader  
7 responsibilities than the ones that relate to one particular  
8 company.

9 The market monitor at PNN has a much more limited  
10 role than, say, the market monitor at PJM or MISO, just  
11 because in the organized markets, they'll be looking at  
12 wholesale power sales, as well as transmission service. I  
13 think they just have a broader portfolio.

14 DR. GARBACZ: If it is established, I'm not sure  
15 that the Mississippi Commission is in favor of that.  
16 Really, I don't understand exactly why we would need such an  
17 entity.

18 CHAIRMAN KELLIHER: They have been erected  
19 sometimes to guard against affiliate abuse, and competitive  
20 solicitations. Sometimes I think that is the rationale for  
21 some of the Entergy market monitors, to make sure that the  
22 solicitation is run properly and fairly.

23 That's something that doesn't implicate the state  
24 when the state is acting properly as a buyer. At least  
25 Entergy's jurisdiction didn't oppose -- DR. GARBACZ: No,

1 we didn't oppose. But what I'm essentially saying is, if  
2 the recommendation is to establish, there is more than one  
3 utility in the Mississippi area, and obviously in other  
4 states as well, that may not be interested in opposing this.

5 MR. HAMILTON: I wonder if possibly we can do  
6 what you did in the point above, and remove "establish," and  
7 put in "encourage."

8 MR. ERVIN: Another alternative I was going to  
9 suggest, would be to say that in the event that you had some  
10 proposals that might be worth further exploration, that this  
11 might be one of the duties that might be assigned, or that  
12 might not be taken on by one of those entities, so that you  
13 didn't wind up with a freestanding market monitor.

14 While I can't see anybody being in favor of  
15 market abuse -- that's another motherhood and apple pie  
16 issue; nobody's for that -- I think there's a lot of issues  
17 that have to be resolved in developing such a proposal, and  
18 I'm having a little trouble seeing how a freestanding one  
19 would work. I know this is a component that we proposed.  
20 It's also involved in the SPP and the Entergy proposals, as  
21 well.

22 So, maybe we could do it perhaps as part of some  
23 of these other. If they otherwise pass muster, people could  
24 think of including this function in there.

25 CHAIRMAN KELLIHER: So you mean this would be a

1 function of an ICT?

2 MR. ERVIN: Or some other kind of entity. It  
3 would be a function -- it should be a component of such a  
4 proposal of a voluntary nature.

5 MS. BACA: That's what I wanted to add. In the  
6 case of New Mexico, it should be voluntary, as it has been,  
7 and I think that, depending on our own circumstances,  
8 voluntary, to me, is important.

9 CHAIRMAN KELLIHER: I agree. I could see how a  
10 market monitor might be different than an ICT, because a  
11 market monitor could be established under state authority,  
12 not federal authority, and the utility -- it could be where  
13 the utility doesn't have significant generation and is also  
14 a wholesale purchaser. They want to be sure that you're  
15 getting the best price for the retail consumers in your  
16 state. You have to have a market monitor for this kind of  
17 solicitation, and that would have to be a particular state  
18 arrangement.

19 But that would be difficult for an ICT to involve  
20 any kind of a review of a transmission service. It is  
21 different. It could be the same, but it could also be  
22 different, but I agree with the general point that we didn't  
23 want to suggest that somehow it be mandated across the  
24 entire South.

25 States can mandate them, if they believe it

1       necessary to protect retail consumers in the states. We  
2       have required them for organized markets.

3               Okay, any other comments on market monitors?

4               (No response.)

5               CHAIRMAN KELLIHER: Seeing none, let's go to  
6       Bullet 5, Recommendation 5: Create an energy broker such as  
7       the Florida brokers' system or the automated interchange  
8       matching system used in the early 1990s.

9               I have to admit that I'm not fully educated on  
10       the Florida broker system.

11              MR. ERVIN: I've never heard of it. It seems to  
12       me that this subset of the trading hub discussion that we've  
13       already had, to the extent that I understood what we were  
14       talking about, it sounded like they were a form of an  
15       interchange mechanism. I, at least, before I say a lot  
16       about it, I would like to find out.

17              CHAIRMAN KELLIHER: Do we have a knowledgeable  
18       Florida broker sitting here?

19              MR. FUTRELL: I'm Mark Futrell of the Commission  
20       staff in Florida. I'll give you a brief description.

21              The broker existed beginning in the early 1980s,  
22       and was a cost-based systems where in control rooms in  
23       utilities across the state, there was a computer dedicated  
24       to the broker. If utilities had excess energy, usually on a  
25       day-ahead basis, they would make that energy available, and

1 others that needed power -- or that was maybe an economical  
2 choice -- would make bids, and there would be the  
3 opportunity to split savings on purchases and sales.

4 Through the '90s, as some of the things changed  
5 with some of the FERC directives and markets, and we worked  
6 bilateral contracts, the brokerage gradually ended about the  
7 mid-'90s or a few years after that.

8 CHAIRMAN KELLIHER: Does the Florida Commission  
9 think that it was a good experiment and something that  
10 should be encouraged elsewhere?

11 MR. FUTRELL: It certainly was effective in  
12 creating savings for the ratepayers, certainly.

13 CHAIRMAN KELLIHER: A mechanism to assure  
14 sharing, splitting the proceeds?

15 MR. FUTRELL: Correct, in a way to economically  
16 use excess generation and to make it available on a short-  
17 term basis.

18 MR. HOLLOWAY: Just from that description, it  
19 seems to me that it's very similar to the MOCAM Power Pool  
20 that existed in Order 888, just from the description I've  
21 heard.

22 MS. EPPS: A question to Florida -- can you tell  
23 me what you were splitting between -- what was the split  
24 between the utilities and --

25 MR. FUTRELL: I believe it was 50/50. If I'm



1       incorrect, we have some folks here -- if I'm correct, please  
2       let me know. I'm getting some nods here, so I think that's  
3       right.

4               DR. GARBACZ: Mr. Chairman, could I make a  
5       comment about that? In the testimony that Mr. Hurstell put  
6       forward, he made some indication that they had tried to  
7       impose something within Entergy and had gotten to such a  
8       point where they thought that the problem was in the split,  
9       that there were parties who were coming to the table, that,  
10      in effect, were getting a better deal than some other  
11      parties, and to some extent, that created a problem in  
12      making the process work.

13              CHAIRMAN KELLIHER: Let me get back to Jimmy's  
14      point from earlier. Is this too far afield from security-  
15      constrained economic dispatch? This seems to go with how do  
16      states assure that when a state-regulated utility makes off-  
17      system sales, that there is some kind of good to the retail  
18      consumer.

19              It' just seems it's beyond the pale of security-  
20      constrained economic dispatch. There's not even a dotted-  
21      line relationship between the two. What do you think,  
22      Jimmy?

23              MR. ERVIN: The reason being, as we attempt to  
24      practice it, security-constrained economic dispatch -- in  
25      the Carolinas, one of the obligations, is to make purchases

1       that would displace our wholesale generation.

2               This seems like a formalized level to ensure that  
3       that's going to do it. I had an easier time after listening  
4       to the discussion we just heard, equating this to security-  
5       constrained economic dispatch as practiced in the region,  
6       than I did to the expansion issues that Sandy and I were  
7       talking about earlier.

8               Security-constrained economic dispatch is maybe  
9       more static than Sandy's viewing it. How do you make the  
10      best use of the resources that are available for the purpose  
11      of producing the lowest-cost power for sale at retail?

12              This is maybe not the only way to do it, but it's  
13      a way to achieve that economic purchases are, in fact, made,  
14      as far as self-generation.

15              CHAIRMAN KELLIHER: The Florida broker system,  
16      did it involve -- was it limited to sales and PSC oversight,  
17      if you will, of sales by the utilities, or is it purchased?

18              MR. FUTRELL: It was purchased.

19              CHAIRMAN KELLIHER: Sorry, I did not fully  
20      appreciate that.

21              MR. ERVIN: It sounds like maybe, as it was  
22      stated, historically, you've always kind of split the  
23      transaction savings between utilities. It sounds like a  
24      formalized way of doing it.

25              MR. HAMILTON: Mr. Chairman, as Mr. Ervin just

1       said, it sounds like I don't think we really have enough  
2       information on this to make a judgment today as to what we  
3       would recommend.

4               CHAIRMAN KELLIHER: This is another area that  
5       trading hubs could circulate additional information on the  
6       Florida broker system and how similar it is to other utility  
7       arrangements.

8               MR. CLOUD: The operative words seems to be  
9       "create."

10              CHAIRMAN KELLIHER: Right.

11              MR. CLOUD: Explore, study.

12              CHAIRMAN KELLIHER: Why don't we move to the  
13       sixth recommendation, unless there are other comments on the  
14       Florida broker system. Thank you very much for the  
15       explanation.

16              The sixth recommendation from the record, is:  
17       Review selected dispatch entities, including some investor-  
18       owned utilities, to determine how they conduct economic  
19       dispatch. These reviews could document the rationale for  
20       all deviations from pure, least-cost, merit-ordered dispatch  
21       and distinguish entity-specific and regional business  
22       practices from regulatory, environmental, and reliability-  
23       driven constraints.

24              This recommendation comes from the Department of  
25       Energy report that was issued shortly after our last

1 meeting. So, this recommendation is, if you will, a soft  
2 recommendation just to review different practices on  
3 economic dispatch.

4 It's not requiring any particular action. Any  
5 comments?

6 MR. ERVIN: Mr. Chairman, I am generally  
7 sympathetic to this kind of recommendation on the theory  
8 that you heard in miniature in Palm Springs the budget  
9 controversy that we hear regularly in our day jobs.

10 Much of that, it seems to me -- a lot of that --  
11 at some point, there is an answer to whether various things  
12 are or are not happening. If this looks like to be a  
13 recommendation that some sort of study be done to determine  
14 what are the facts, and I don't see why any of us, assuming  
15 we're dispassionate and unbiased, could really have any  
16 concern about doing something like that.

17 I'll have to say, besides that I thought I was  
18 impressed with the quality of DOE's work, generally, given  
19 the amount of time they had to do it in, they're supposed to  
20 file these reports, but, generally speaking, I was inclined  
21 to do something supportive of a further inquiry, if that was  
22 an appropriate function for the Joint Board.

23 CHAIRMAN KELLIHER: Any other comments?

24 (No response.)

25 CHAIRMAN KELLIHER: Why don't we move to the next

1 recommendation, and, again, this is from the DOE economic  
2 dispatch report: Recommendation that FERC and DOE explore  
3 electric power supply association and Edison Electric  
4 Institute proposals for more standard contract terms and to  
5 encourage stakeholders to undertake these efforts.

6 Any comments on this?

7 (No response.)

8 CHAIRMAN KELLIHER: I'm happy about exploring  
9 more standard contract terms, and I'm comfortable with this  
10 recommendation. I think there are periodic reviews of some  
11 of the standard contracts used in the industry.

12 I'm trying to see the relationship between  
13 revising the standard contract terms and economic dispatch,  
14 though. I'm not sure of the connection between the two,  
15 really. Sandy?

16 MS. HOCHSTETTER: It seems like this is one of  
17 those recommendations that would benefit from a little bit  
18 more definition. I'd personally want to tie the types of  
19 contract terms to the particular subject matter that we're  
20 exploring.

21 I don't remember, off the top of my head, which  
22 contract terms are being referenced here. It might be that  
23 this recommendation just needs to be expanded a little bit  
24 better, so that there's some interplay.

25 CHAIRMAN KELLIHER: We can try to run this down

1       and send something out to the Joint Board members, about  
2       what, specifically, is being proposed with respect to the  
3       standard contract terms.

4               The next DOE recommendation is to -- any other  
5       comments on this one?

6               DR. GARBACZ: I'm not sure this is a proposal to  
7       establish these contract terms or something that's  
8       industrywide, or we're just exploring that?

9               CHAIRMAN KELLIHER: I think Sandy's suggestion is  
10      that we run down exactly the standard contract terms, if we  
11      think that should somehow be revisited. The recommendation  
12      is to explore EPSA and EEI proposals for more standard  
13      contract terms, to get a feeling for which contract terms  
14      are at issue.

15              DR. GARBACZ: If it's just an exploration process  
16      or something like that, that's fine.

17              CHAIRMAN KELLIHER: I'm struggling with seeing  
18      the relationship between economic dispatch and, necessarily,  
19      the contract terms that are used for wholesale power sales.

20              MR. HAMILTON: We are talking about wholesale?

21              CHAIRMAN KELLIHER: Yes, sir.

22              The next DOE recommendation is: Review current  
23      economic dispatch technology tools. These tools include  
24      software and data used to implement economic dispatch, as  
25      well as the underlying algorithms and assumptions.

1           Again, this one seems to be inoffensive. FERC is  
2           not a technology agency, but further study of the technology  
3           tools for economic dispatch, seems inoffensive.

4           DR. GARBACZ: It would seem to be kind of related  
5           to No. 6. In fact, they seem to be somewhat the same thing,  
6           in that you're really trying to get at the same issue.

7           CHAIRMAN KELLIHER: Right.

8           DR. GARBACZ: I'm not exactly sure why the two  
9           are separated.

10          MR. HOLLOWAY: At least it seems to me that the  
11          reason why they're separated is that there are certain  
12          economic dispatch software that different utilities use.  
13          It's very complex. Maybe this is just to look at that  
14          specific type of software, to see if there's some ingrained  
15          error or bias.

16          I mean, that's the only difference I can see.

17          DR. GARBACZ: The only interpretation I had was,  
18          you're trying to get at these problems in terms of perhaps  
19          not actually executing correctly under No. 6 there, and, to  
20          some extent, the way you execute is with these models.

21          CHAIRMAN KELLIHER: Any comments on the  
22          technology tool recommendation?

23          (No response.)

24          CHAIRMAN KELLIHER: Revising the technology tools  
25          seems reasonable. Let's move to the final category of

1        recommendations.  These are additional recommendations by  
2        Joint Board members, the first one being:  The Commission,  
3        FERC, should conclude that there is no single appropriate  
4        method for performing economic dispatch, and that the nature  
5        of economic dispatch can vary from region to region,  
6        depending on local conditions.

7                    Any comments on this recommendation?  Yes, sir?

8                    MR. HAMILTON:  Mr. Chairman, I'm from South  
9        Carolina, and it being Sunday morning, we can put an amen to  
10       this one.

11                    (Laughter.)

12                    DR. GARBACZ:  The problem with this  
13        recommendation is that it seems to kind of cut across.  It  
14        seems to be somewhat contradictory to some other things that  
15        we just passed earlier.

16                    I realize that you only say "review and explore,"  
17        and so forth, but in Nos. 6 and 8, you're essentially trying  
18        to get at, well, there's some kind of a problem here.  In  
19        this particular recommendation here, there appears to be no  
20        problem, and, of course, that's the position of the  
21        Mississippi Commission, as well.

22                    MR. ERVIN:  I guess I might as well confess to  
23        the Joint Board that we submitted this recommendation from  
24        me.

25                    (Laughter.)



1                   MR. ERVIN: I have a document that we decided to  
2 pull for ease of discussion. I guess the reason that I had  
3 suggested that we include something like this, was that we  
4 were supposed to look and see whether we believed that the  
5 dispatch was being performed in an economic fashion, and  
6 that we need to reach some conclusion on that question.

7                   The conclusion I thought we ought to reach on it  
8 was, 1) that if there's no single, correct way to do it, in  
9 the sense that utility-by-utility economic dispatch is one  
10 way of doing economic dispatch, then the use of a large  
11 regional bid-based market like you would find in the Day Two  
12 RTO, is another way to do it, and that neither is right or  
13 wrong in any particular set of circumstances, but, instead,  
14 you've got to make a determination as to whether you, in  
15 fact, have economic dispatch being performed, based on the  
16 circumstances that you find.

17                  You've alluded to the second one. If folks that  
18 were performing dispatch for vertically-integrated utilities  
19 were, in fact, doing what they said they were doing, then  
20 that would be a form of economic dispatch, and it would  
21 depend on us to make the judgment if they were or were not  
22 doing it.

23                  That may help you a little bit with your point,  
24 which was generally, that there's not a single way to do it.  
25 What we need in our region is a form of it, but it's not the

1       only form.

2                   I don't know that there's really any  
3       inconsistency between saying this and saying that we can do  
4       better because we can always do something basically  
5       correctly.

6                   CHAIRMAN KELLIHER: This recommendations also  
7       reflects that there's more variety in how economic dispatch  
8       is performed in the South, than in any other region. Texas  
9       does it a certain way; SPP is proposing a balanced market,  
10      which, again, is a form of economic dispatch that's  
11      different from ERCOT, and the rest of the South typically  
12      does it utility-by-utility.

13                  So there's more variety in how economic dispatch  
14      is done in the South than in any other region, and I think  
15      there's a practical observation that it's unlikely that that  
16      variety will disappear in the near future.

17                  Since it exists and is likely to continue to  
18      exist, it's probably appropriate to observe that.

19                  MS. BACA: Mr. Chairman, I think, as the only  
20      Joint Board member on both the South and the West, I agree  
21      with that, and also the West Joint Board stated the same  
22      thing. In fact, in their recommendations, they were talking  
23      about increasing the regional size of the dispatch regions,  
24      not consolidating it, in principle, to a lower-cost  
25      dispatch, but inclusion of more generation and transmission

1 resources.

2 So that was a big area of discussion that we had  
3 in the West Region. I know it would be very supported by  
4 New Mexico both on the South Joint and the West Joint.

5 CHAIRMAN KELLIHER: Thanks. It seems to be the  
6 reality and it's always good to recognize reality. Any  
7 other comments on this?

8 (No response.)

9 CHAIRMAN KELLIHER: Does anyone oppose this  
10 recommendation or propose a different approach? (No  
11 response.)

12 CHAIRMAN KELLIHER: Why don't we got to the  
13 second recommendation in this category: The Commission  
14 should conclude that utilities in the South appear to  
15 generally agree in security-constrained economic dispatch.

16 MR. ERVIN: As I said earlier, Mr. Chairman, I  
17 think that what I was trying to get at here, was that we had  
18 certain processes described for us at the Palm Springs  
19 meeting, and it seemed to me that if dispatch was done as  
20 described, that that was certainly within the definition of  
21 security-constrained economic dispatch, as I understand it.

22 I think we ought to be a little bit careful,  
23 perhaps, to prejudge an individual factor for purposes of  
24 drafting a report. Probably, this ought to be written in a  
25 nuanced fashion.

1                   MS. HOCHSTETTER: As a matter of fact, perhaps we  
2 should say -- maybe we should say something that, based on  
3 the information we currently have, we have no reason to  
4 believe that it isn't being performed in that manner, but I  
5 don't think we can conclude, at least positively, that is  
6 being performed yet in that manner. Does that make sense?

7                   CHAIRMAN KELLIHER: Yes, because otherwise, we  
8 can't say that every utility in the South is necessarily  
9 performing security-constrained economic dispatch; we can  
10 observe that generally it appears to be performed in  
11 different ways, but it can't turn into a very specific  
12 finding, because we haven't looked at the practices of every  
13 utility in the South and we can't be expected to, so we can  
14 just make sure that one doesn't appear to be a formal kind  
15 of factor. Any other comments?

16                   (No response.)

17                   CHAIRMAN KELLIHER: Let me go to the third  
18 recommendation in this area. Do you want to read them or  
19 should I?

20                   (Laughter.)

21                   CHAIRMAN KELLIHER: I'll read them, and then I'll  
22 turn to the anonymous Joint Board member. The third  
23 recommendation: The Commission, FERC, should conclude that  
24 unaffiliated generators and other entities that believe that  
25 security-constrained economic dispatch is not being

1 performed appropriately, have recourse at the state  
2 commissions to have unreasonable costs disallowed.

3 MR. ERVIN: Speaking anonymously, my point here  
4 was that it's not as if there is no recourse somewhere, in  
5 the event that an entity feels as if it is being  
6 discriminated against in economic dispatch. We had one case  
7 within the last couple of years, where an allegation was  
8 made by an intervenor, that the utility was not, in fact,  
9 making purchases that it would have been economic to make,  
10 but, instead, was self-generating.

11 That's at least something that the North Carolina  
12 Commission does not have a lot of tolerance for, if that is,  
13 in fact, what is going on. And it did seem to me that  
14 particularly if we're going to give them the factual caveat  
15 that you suggested be made, with which I agree, that we also  
16 ought to point out that there are places in which a  
17 generator that feels that it is not being treated fairly,  
18 you also have your anti-discrimination authority.

19 But there's also the state commissions, and I  
20 think that's something we ought to point out.

21 MS. HOCHSTETTER: I think, though, Jimmy, that's  
22 a different type of action. There's a different remedy for  
23 that.

24 I would recommend that we frame this differently.  
25 The remedy for discrimination claims with respect to the

1 utility's behavior, would be different than cost  
2 disallowance. We'd ask the Staff of the Commission to look  
3 at whether or not the costs were appropriately passed  
4 through, say, for example, in the fuel adjustment clause.

5 We might want to expand this to talk about both  
6 cost disallowance, which the Commission Staff would want to  
7 investigate, and change its authority. Unregulated  
8 stakeholders don't have any standing to look at that  
9 situation, but, in addition, the discrimination allegation  
10 and any behavioral remedies for that, relative to the  
11 utility, is another thing that the state commission has  
12 jurisdictional authority to adjudicate.

13 We might want to talk about this in terms of both  
14 different causes of action and remedies.

15 MR. HOLLOWAY: I have a little bit different  
16 concern about this. That is that, as stated, it sounds like  
17 the state commission can address this problem.

18 It depends on the state commission. There are  
19 many states that have, for instance, no jurisdiction over  
20 G&T cooperatives, and they own significant transmission in  
21 their states. There are many states that have a broad  
22 presence of public power authorities of some sort or  
23 another, and that have no jurisdiction over them.

24 I'm not sure, as a flat statement, that this is  
25 always necessarily true.

1                   CHAIRMAN KELLIHER: That's true; it would seem to  
2     be limited to state-regulated utilities. If the question  
3     is, let's assume that a utility does not engage in security-  
4     constrained economic dispatch, that somehow they unfairly  
5     deny or they deny lower cost, they decline to purchase from  
6     lower-cost suppliers and they prefer to operate their own  
7     generation.

8                   What is the recourse? If it's not a state-  
9     regulated utility, there's no recourse at the state level.  
10    At the federal level, there is some unfair denial of  
11    transmission service.

12                  If that's what result in the sale not occurring,  
13    then a complaint can be filed at FERC, that, allegedly,  
14    there's been a violation, there's been undue discrimination  
15    in transmission service, and that's subject to civil  
16    penalties and disgorgement of profits.

17                  So, if the non-occurrence of economic dispatch  
18    was to result in undue discrimination in transmission  
19    service, there's recourse to FERC, but if it's a state-  
20    regulated utility and, for some reason, they opt not to  
21    purchase from lower-cost suppliers, I suppose, generally,  
22    there would be recourse at the state level.

23                  I defer to my colleagues on exactly how a  
24    complaint might be handled, but it's probably transmission  
25    service, which if it's imprudent is then tantamount to not

1 purchasing a lower-cost supply.

2 It could be that the state has generally approved  
3 some kind of purchasing scheme for a period of time. I'm  
4 not sure how that would play out at the state level, but it  
5 would be limited to the state-regulated utilities.

6 The Commission can only regulate wholesale sales,  
7 not wholesale purchases, so if it comes down to the state-  
8 regulated utility's behavior as a purchaser, it would seem  
9 to be the state province, but there generally would be  
10 recourse at the state level. Questions?

11 (No response.)

12 CHAIRMAN KELLIHER: The fourth anonymous  
13 recommendation, we didn't --

14 MS. HOCHSTETTER: I would actually like to point  
15 out that I said the exact opposite of that in Palm Springs.  
16 I do, in fact, believe that economic upgrade prospects are  
17 something that are fairly covered under the ambit of the  
18 Board's authority.

19 CHAIRMAN KELLIHER: That's one thing I meant to  
20 bring a copy of. Does anybody have a copy of the EPAct  
21 provisions? I meant to swing by FERC and pick it up this  
22 morning, but it took too long to dig my car out, so I was  
23 not able to do that.

24 But let's take a look at actually the provision.  
25 There is some indication -- Jimmy may have it. He's usually



1 well prepared. We'll take a look at the exact words of the  
2 EPAct provision, but we don't have to read it as more  
3 limited than it actually is. Let's see what the limitations  
4 are.

5 The final recommendation -- and then we can get  
6 to the free-flowing McLaughlin Group kind of debate time.  
7 This is open to additional recommendations by the Joint  
8 Board members. We'll get to the last bullet here. We can  
9 continue to talk about other issues folks might have.

10 We'll talk about the last anonymous  
11 recommendation: Expanding the geographic scope of economic  
12 dispatch should not be implemented on an involuntary basis  
13 at this time.

14 Is there general agreement with this  
15 recommendation? Jimmy, what do you think about it?

16 MR. ERVIN: I think we've essentially talked  
17 about this one in connection with the first recommendation.

18 CHAIRMAN KELLIHER: That was something that was  
19 said in the meeting in California. From the beginning, we  
20 made clear that Commission policy, to be very frank -- the  
21 Commission supports voluntary RTO formation. It's not  
22 proposing to change that.

23 We terminated the SMD rulemaking, just to make  
24 that very obvious. This recommendation seems to me to be  
25 consistent with the Commission's approach, so if it seems

1       that if you wanted to expand, involuntarily expand the  
2       geographic scope beyond dispatch in the South, it would seem  
3       that it would have to involve some kind of mandate to  
4       establish an RTO or some institution to operate dispatch on  
5       that broader footprint. That does not seem to be in the  
6       cards.

7                     Any disagreement?

8                     (No response.)

9                     CHAIRMAN KELLIHER: Are there any additional  
10       recommendations that haven't -- we don't have to be limited  
11       by the record of the November meeting. Jimmy has gone  
12       beyond the record in some of his recommendations. He's  
13       inferred from the record, some additional recommendations,  
14       but there's an opportunity for anyone here to put forward  
15       some new recommendations, as well. Any comments?

16                    (No response.)

17                    CHAIRMAN KELLIHER: Well --

18                    MR. HAMILTON: Before we close, if I could make a  
19       request, if other commissioners are in agreement, when these  
20       matters that we've discussed today are put in writing, that  
21       we could receive the information and possibly this Board  
22       could meet or have a conference call, where we could discuss  
23       these before the final draft?

24                    CHAIRMAN KELLIHER: Yes. What I'm trying to do  
25       is recapitulate the discussions we've had here. In the

1 draft study that was circulated, there was a placeholder  
2 section of recommendations. What we'll try to do is to fill  
3 that in, based on our discussion. We'll also circulate some  
4 of the information that I think we need to finish our  
5 decisions in some areas, to circulate that information on  
6 trading hubs, on the Florida broker system, and I think  
7 there's one other area. Wasn't there another area where we  
8 were going to circulate information?

9 I think those are the areas -- contracts, yes,  
10 right, exactly. Find out exactly what DOE meant in that  
11 recommendation with respect to standard contract terms.  
12 We'll circulate that information.

13 In the meantime, Commission Staff will try to  
14 recapitulate our discussion here in the draft studies, and  
15 sort of fill in that recommendation section. Then we can  
16 have another conversation, perhaps a conference call. It  
17 depends on how extensive the discussion needs to be. A  
18 conference call might suffice.

19 What is our timeline for the next step? What's  
20 the final action that we're looking, in May, to report to  
21 FERC, from the Joint Board? May would be a deadline for  
22 wrapping up and sending a report to FERC, so we have some  
23 time.

24 What we'll do after this meeting is get the  
25 additional information we discussed, circulated. We can all

1 take a look at it and take that for a little bit, schedule a  
2 conference call, and, contemporaneously, we'll fill in that  
3 part of the draft study with respect to recommendations,  
4 where we think we are.

5 And once we have the information, we can have  
6 another discussion, and perhaps a conference call would  
7 suffice.

8 I want to thank everyone for coming on a  
9 blizzardy day, and I want to thank the Commission Staff for  
10 coming and being here. I'm sure they were a little nervous  
11 when the Chairman walked in five minutes before the meeting  
12 was to begin, but it did take me awhile to dig my car out.  
13 D.C.'s policy on snow removal in alleys relies heavily on  
14 sunshine and temperature, and we didn't have enough of that  
15 this morning.

16 What else do we have to discuss? Anything?

17 MR. ERVIN: I think that in terms of trying to  
18 draft some proposals, I'd like to talk about trying to get a  
19 group on a state basis to try to put a draft together.

20 I'll be happy to try to do that, so if anybody  
21 would like to work with us in an attempt to try to get those  
22 recommendations sections of this report drafted, see me  
23 afterwards and we'll try to do that.

24 CHAIRMAN KELLIHER: Great. Okay, I think that's  
25 it. I don't have a gavel, so I've to metaphysically gavel

1       this meeting to a close.

2                   (Whereupon, at 10:55 a.m., the Joint Board South  
3       meeting was adjourned.)

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